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July 7, 2006

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Re: Dalidio Ranch Project

Dear David:

This letter is being written to you in response to the June 22, 2006 letter addressed to you from San Luis Obispo City Administrative Officer Ken Hampian. In his letter and accompanying analysis many issues were raised that require clarification and comment.

It is understandable that the City is concerned with and has questions about the Initiative process. None of us envisioned this course of events subsequent to the approval of the previous Marketplace project when a small group of property owners and business people joined forces with the environmental community to call for a special vote on the project. It was unfortunate that low voter turnout resulted in a minority of residents (fewer than 25%) narrowly overturning the City Council's approval of the Marketplace project. We, like the City, would have preferred to move forward through the normal County project approval process, but having been promised by the opposition that a referendum would be called if the County approved the project, we were left with no alternative but to go directly to the voters.

In the City's assessment of certain issues and impacts raises six general questions. We would like to address these questions in order.

- **Issue One: Legal Framework**

In essence, the City contends that by taking this issue directly to the voters the normal process of discretionary review and public comment is eliminated. We disagree.

The proposed Dalidio Ranch project as described in the Initiative is very similar to the previously approved Marketplace project with a few differences. The most notable change is a substantial reduction in size of the retail center by 120,000 square feet.

It has to be noted that different iterations of projects at Dalidio Ranch have been significantly studied since 1994. Two project specific Environmental Impact Reports

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have been accompanied by numerous ancillary studies. Also, we have the City's own environmental studies relating to the General Plan and the environmental studies relating to the Prado Road interchange. During the time that the project was being reviewed by the City of San Luis Obispo, there were no fewer than 40 public hearings. Prior to submitting the County Initiative petition to voters, a task force made up of a diverse group of citizens met for months to review previous proposals and make recommendations for changes to the project. This task force eventually held a public hearing in the Board of Supervisors' chambers to allow citizens to once again voice their opinions on Dalidio Ranch.

Finally, Mr. Hampian's analysis correctly states that even after the project is approved by County voters it is still required to go through the normal approval process by state and federal agencies including the Regional Water Quality Control Board, thus allowing further review and public input.

- **Issue Two: Policy Implications**

Mr. Hampian states that the legacy left by the passage of this Initiative will have precedent setting implications, opening the flood gates to developers throughout the County seeking a "much faster and less expensive route" to project approval.

If a precedent has been set, it was long ago when the initiative process was adopted by the voters of many states, including California. Initiatives are intended not to change our system of government and review, but to enhance it. People and groups from all parts of the political spectrum, not just developers, have used the process.

Land use initiatives have been numerous in California. In November 2000 there were 61 growth issues on local ballots statewide: 34 "slow-growth" propositions, (including the SOAR initiative in San Luis Obispo County), 22 "pro-growth" measures and 5 that were deemed "neutral." Six growth/development initiatives were on the ballot in Contra Costa County in 2004-05, and at least one is anticipated in the November 2006 General Election.

In researching these examples, no evidence exists to support the idea that developers will use this alternative to skirt the normal review process. Indeed, an election issue, whether an initiative or for a candidate, is a risky and expensive proposition with no predictable outcome. As stated before, this alternative would not have been pursued had the threat of another referendum not existed.

It seems eminently unfair to suggest that it is okay to go through years of the planning process, numerous public hearings and CEQA evaluations resulting in final approval of a

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project only to have it overturned by referendum, but it is somehow not okay to seek approval of a project by initiative.

- **Issue Three: Services – public safety, water and sewer, street maintenance/transportation**

The County and City have a “quid pro quo” arrangement to provide public safety services. Mr. Hampian correctly notes that “from a practical standpoint...public safety professionals will make public safety the highest priority” thus assuring basic services regardless of the question of jurisdiction. It is true that a higher level of coordination between County and City will be needed to assure this and other basic services are provided.

While the magnitude of this project may be larger, the circumstance of County/City cooperation is not. The County and City are uniquely qualified to devise and institute a system of coverage as has been successfully demonstrated in other parts of the county. That is why Ernie Dalidio strongly supported Supervisor Lenthall’s effort to reach out to the City to discuss these issues, find answers and establish a collaborative working relationship.

The issue of fire safety will be appropriately addressed since the County fire code is fundamentally the same as the City fire code in commercial developments. It is anticipated that water storage will be provided on site to provide adequate quantity and water pressure for fire suppression.

With regard to water and sewer, Mr. Hampian correctly states that Dalidio Ranch will supply water and waste water services independently. It is well known that the ranch sits atop an aquifer that is capable of supplying as much water as is needed to support this mixed-use project. The package wastewater facility will be designed to operate in a similar fashion to other package plants located throughout San Luis Obispo County. These plants have operated successfully in managing discharge and odors without incident and complaint from neighbors.

The supply and delivery system will be reviewed by both the County Engineering Department and the County Health Department. The entire water and wastewater facility will fall under the jurisdiction of the Regional Water Quality Control Board. Dalidio Ranch must comply with the development process for construction of the facility per RWQCB direction. This process includes normal application and environmental review, public comment and Board approval.

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On the subject of maintenance and transportation costs, an answer to this and other cost issues may be found in the development of a special assessment district. We will expand on this idea further later in this letter.

- **Issue Four: Traffic and Prado Road Interchange**

The Dalidio Ranch Initiative pays strong attention to the issue of traffic impacts and provides positive alternatives for mitigation of these issues. Yet the City is critical of these recommendations, suggesting that the mitigation does not actually build anything. However, as the City is well aware, a private party such as a developer cannot construct road improvements on public land. All one can do is to provide the funding for the improvements. And it must be noted that while the City's circulation element has included a plan to build the Prado Road overpass for many years, the April 2005 election demonstrated that the political will for completing it may not exist in the City.

Several traffic and circulation issues within the city must be addressed through the leadership of both the County and City. The Dalidio Ranch project cannot independently solve all of the overriding traffic issues, many of which exist today.

However, great lengths have been taken through the Initiative to support several specific measures that will improve existing and future traffic congestion. Inclusive of these measures is a \$10 million investment to pay the development's fair share of costs for construction of the Prado Road/Highway 101 Interchange, construction of a new pass through of the existing Calle Joaquin from Los Osos Valley Road to Madonna Road, improvements to the Los Osos Valley Road/Calle Joaquin intersection, and re-striping of the Los Osos Valley Road/Madonna Road intersection along with other on and off-site traffic mitigation measures.

The Initiative process does not require traffic studies. Nevertheless, the developers of the Dalidio Ranch project commissioned a new traffic study to analyze traffic impacts and devise mitigation measures in conjunction with the Initiative process. The new study, dated March 3, 2006 was prepared by W-Trans. We have included a copy of this traffic study for your review.

Conclusions of the study are summarized on page 18. In essence the study states that:

- Intersections in the affected area are currently operating acceptably at level of service D or better overall. Intersections in the area should continue to operate acceptably with the mitigation measures proposed.
- Even without the Dalidio project, the Madonna Road interchange would operate at unacceptable levels of service by the year 2016. While the

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construction of the Dalidio project would accelerate that timeline, the projected Prado Road/Highway 101 interchange would successfully alleviate unacceptable future capacity levels at both the Los Osos Valley Road/Highway 101 and Madonna Road/Highway 101 interchanges.

- All other traffic impacts can be mitigated with typical control and lane improvements.
- Significant traffic impacts at the Los Osos Valley Road/Madonna Road intersection will be present regardless of whether Dalidio Ranch is developed or not.

With respect to the "fair share" of cost for traffic mitigation of the project, please note on page 17 of the Traffic Study, that Table 4 analyzes the "fair share" as noted by Mr. Hampian. The updated traffic study indicates that 23 % of the total traffic volumes at the Prado Road interchange are attributed to the Dalidio Ranch project. The declared actual cost of the overpass was set at \$22 million. With that figure, the project's \$4 million cash contribution along with 13 acres of highway frontage dedication (valued at \$4 million), far exceeds the project's fair share of the costs of the Prado Road interchange.

Mr. Hampian has suggested that deadlines of 10 years for construction of the Prado Road overpass and 1 year for completion of traffic mitigation efforts are unrealistic. We disagree. The City and County have repeatedly proven the ability to work together proactively under unusual circumstances to get the job done. Despite his protestations, we believe the deadlines imposed are realistic. Supervisor Lenthall's proposed meetings between the City and County can certainly jump start this process.

- **Issue Five: Open Space and Agricultural Land Use**

City analysis of the Initiative notes that the City's General Plan calls for retention of 50% of lands developed in the City of San Luis Obispo to be preserved in open space or agricultural uses. Mr. Hampian notes that the Marketplace project, approved by the City, adhered to this restriction.

However, Dalidio Ranch is now a county project and should conform to the County's General Plan and be not subject to City regulations. Fortunately, County regulations have enabled the project to be enhanced to allow for better public access. County residents will be able to enter previously unreachable habitat areas via an extension of the Bob Jones Trail. Sports fields and a full time Farmer's Market have been included as were suggested by County residents. And to acknowledge the Ranch's agricultural heritage, nearly 14 acres have been set aside, and the land allowed to go fallow, for the

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creation of what we believe to be the largest organic farming operation (non beef producing) in the county.

While the intention of the City's Open Space element is laudable when applied to property on the edge of the City, it is not practicable to lands completely surrounded by urban uses. The Dalidio family has farmed this land for nearly 100 years. Although a smaller organic farming operation as proposed can function on the property, a larger traditional agricultural operation is no longer feasible.

- **Issue Six: Fiscal Impacts**

Mr. Hampian states that "under the proposed initiative, there will be no way of addressing" fiscal impacts. This is not true and in fact the only thing which can inhibit the City and County from sound fiscal management of this project is the willingness and the creativity to address it. As stated earlier in this letter, we are certain there is a legal and manageable way to resolve the costs associated with capital improvements and services.

Most significant is creating the means for paying for construction of the Prado Road overpass. Clearly a high level of cooperation and sharing must exist if there is any hope of reaching this goal. We suggest that the County and City sincerely explore the process for formation of a special assessment district that would provide the legal structure for obtaining and distributing funds to pay for the Prado Road interchange, cover operational costs for public safety services, and find a way to maintain streets and provide public transportation.

Certainly revenues exist to accomplish this. It has been estimated that combined new income from property and sales tax could exceed \$3 million annually. This new income is more than adequate to offset the City's estimated \$1 million loss. It is in the mutual best interest of the residents of the County and City of San Luis Obispo to find the method for creating such a district.

As we stated at the beginning of this letter, the City's concern with how to manage the decisions of the electorate via this Initiative is understandable. However, we believe that pointing out all the issues without offering solutions is unfortunate and short sighted. History has proven that government can appropriately react and deal with the will of the people by way of the Initiative process. We respectfully disagree with the City's position that residents cannot make an informed vote on this issue. Californians have consistently proven the opposite to be true.

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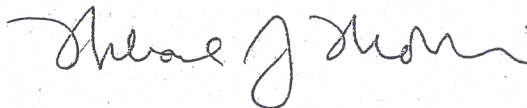
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Taking direct legislative power through the initiative process is common in California, where the right to vote demonstrates democracy in its truest form.

We encourage both the County and City to continue to work together on these matters of mutual concern.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Michael J. Morris". The signature is fluid and cursive, with the first name "Michael" and last name "Morris" clearly distinguishable.

Michael J. Morris

MJM/at
cc: City of San Luis Obispo
Enclosure